

Message Text

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PAGE 01 STATE 165851

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INFO OCT-01 ISO-00 FEA-01 AGR-05 CEA-01 CIAE-00 DODE-00

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NSC-05 PA-01 AID-05 CIEP-01 SS-15 STR-04 TAR-01

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EA-06 EUR-12 NEA-10 IO-10 /131 R

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TO AMEMBASSY OTTAWA

INFO USMISSION GENEVA

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E.O. 11652: N/A

TAGS: ETRD, GATT

SUBJECT: GOC REMISSION OF CUSTOMS DUTY ON FOREIGN AUTOMOBILES INCORPORATING CANADIAN COMPONENTS

REF: A) STATE 128197; B) OTTAWA 2218; C) STATE 154214

1. WASHINGTON AGENCIES APPRECIATE FULL EMBASSY REPORTING ON DISCUSSIONS WITH ITC OFFICIALS CONCERNING THE GOC REMISSION PLAN. OUR PRELIMINARY LEGAL REVIEW OF THE CANADIAN

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PAGE 02 STATE 165851

AUTO PARTS DUTY REMISSION ORDER INDICATES THAT THE SCHEME'S CONSISTENCY WITH GATT IS QUESTIONABLE. WE BELIEVE THE

SCHEME COULD BE CHALLENGED IN THE GATT UNDER ARTICLE I AS A VIOLATION OF THE UNCONDITIONAL MFN OBLIGATION, AND POSSIBLY UNDER ARTICLE XVI AS BEING EQUIVALENT TO AN EXPORT SUBSIDY. HOWEVER, GIVENTHE APPARENTLY MARGINAL EFFECT THE SCHEME IS PERCEIVED TO HAVE FOR U.S. INTERESTS, WE BELIEVE IT BEST NOT TO CHALLENGE THE CANADIAN PLAN FORMALLY IN THE GATT OR ELSEWHERE. FYI: SINCE PRESEURE SEEMS TO BE MOUNTING ON THE GOC, BOTH IN THE PARLIAMENT AND FROM INDUSTRY AND LABOR SOURCES, TO REMEDY THE SUBSTANTIAL TRADE IMBALANCE UNDER THE AUTOMOTIVE AGREEMENT, AN OPEN CHALLENGE ON THIS RELATIVELY SMALL MEASURE TO HELP THE DOMESTIC PARTS INDUSTRY COULD BACKFIRE AND AID THOSE WHO WISH THE GOC TO CALL FOR RENEGOTIATION OF THE AGREEMENT. END FYI.

2. WE DO THINK IT IMPORTANT, HOWEVER, THAT THE GOC BE AWARE OF SUBSTANTIAL USG CONCERN OVER THE NATURE OF AND PRECEDENT SET BY THE CANADIAN AUTO PARTS DUTY REMISSION SCHEME. EMBASSY IS REQUESTED TO APPROACH GOC AT AN APPROPRIATE LEVEL AND MAKE THE FOLLOWING POINTS ORALLY: (A) USG BELIEVES THE CANADIAN AUTO PARTS DUTY REMISSION SCHEME IS AN UNDESIRABLE INTERNATIONAL TRADE PRACTICE AND PROBABLY IS NOT CONSISTENT WITH THE GATT. THE PRACTICE WILL OBVIOUSLY BE VIEWED AS A PRECEDENT BY OTHER DEPRESSED CANADIAN INDUSTRIES AND POSSIBLY BY INDUSTRIES IN OTHER COUNTRIES. INTERNATIONAL PROLIFERATION OF SUCH SCHEMES OBVIOUSLY WOULD UNDERMINE THE SPIRIT, IF NOT THE LETTER, OF THE MFN PRINCIPLE AND WOULD SEEM TO IMPOSE EXCESSIVE ADMINISTRATIVE BURDENS ON THE PROCESS OF INTERNATIONAL TRADE. (B) WE UNDERSTAND THE PRESSURES THAT ARE BEING BROUGHT ON GOC TO DO SOMETHING FOR THE AUTOMOTIVE PARTS INDUSTRY, AS INDEED THE CANADIANS MUST UNDERSTAND PRESSURES WITHIN U.S. TO AID OUR SEVERELY DEPRESSED AUTOMOTIVE INDUSTRY (REF C). USG THEREFORE HAS DECIDED AT LEAST FOR THE PRESENT NOT TO PROTEST FORMALLY THE CANADIAN AUTO PARTS INDUSTRY DUTY REMISSION SCHEME, BUT (C) THE FACT THAT THE USG IS NOT PUBLICLY CONTESTING THIS SCHEME SHOULD NOT BE TAKEN AS A SIGN THAT WE ARE UNCONCERNED ABOUT ITS OPERATION. MOREOVER, THE GOC LIMITED OFFICIAL USE LIMITED OFFICIAL USE

PAGE 03 STATE 165851

SHOULD BE AWARE THAT ANY EXTENSION OF SUCH SCHEME WOULD BE VIEWED BY US WITH INTENSE CONCERN AND WOULD GENERATE A MORE ENERGETIC REACTION ON OUR PART.

3. IF GOC AGAIN CITES ANALOGY OF AUTO PARTS DUTY REMISSION SCHEME TO THE U.S. APPLICATION OF TARIFF ITEM 807, EMBASSY SHOULD NOTE THAT U.S. CUSTOMS SERVICE ENFORCEMENT PROCEDURES DO INVOLVE A SAMPLING OF IMPORTS FOR WHICH 807 DUTY TREATMENT IS REQUESTED IN ORDER TO VERIFY THAT CERTIFIED PARTS ARE OF U.S. ORIGIN. CUSTOMS' EXPERIENCE

INDICATES THAT PERIODIC SAMPLING, COMBINED WITH PENALTIES
FOR FRAUD, IS EFFECTIVE IN ENFORCING THE REQUIREMENT OF
TARIFF ITEM 807. INGERSOLL

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